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ABSTRACT

This study of 50 rural and 50 urban randomly selected Indiana school districts was conducted to investigate current liability insurance practices of public school districts in the state. The districts were surveyed on the number and character of suits against either the district or professional school district personnel, amount of current liability insurance protection carried by the district, degree of legal representation of the district and district personnel, and opinions of respondents about educational malpractice. Responses were received from 52 percent of the urban sample and 68 percent of the rural sample. Among the conclusions are that urban districts and personnel are more likely to be involved in liability suits than are rural districts and personnel; most liability actions are brought on the grounds of negligence or personal injury; urban districts provide for more types of liability, greater amounts of coverage, and larger deductible amounts than do rural districts; and urban districts pay more than twice the yearly fee for legal services dealing with personal liability than do rural districts. (Author/IRT)

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REPORT OF A STUDY:
LIABILITY INSURANCE PRACTICES FOR
INDIANA SCHOOL CORPORATION PERSONNEL

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During the past twenty years, twenty-six additional states have abrogated governmental immunity (bringing the total to twenty-eight), at least five students have attempted to sue the school district for educational malpractice, and suits based on civil rights legislation have increased in number. Professional journals have included articles by noted educators stressing the increased vulnerability of educators to being sued. Within the past ten years, personal liability insurance to protect individuals against suits has appeared to expand rapidly so as to become available to educators who feel the need for such protection. Educational administrators need to be aware of the increasing risk to school districts, school board members, administrative personnel, and teachers in order to make sound moral and fiscal judgments concerning the purchase of liability insurance to protect school districts and professional school district personnel. A study was conducted to investigate current liability insurance practices for professional school district personnel in Indiana.

The sample consisted of one hundred Indiana school districts, fifty rural and fifty urban, randomly selected from the population which consisted of all Indiana public

school districts. Indiana school district officials from the sample school districts were surveyed with regard to: (1) number and character of suits against either the school district or professional school district personnel, (2) amount of current liability insurance protection carried by the school district, (3) degree of legal representation of the school district and school district personnel, and (4) opinions of respondents about educational malpractice. Responses were received from 52 per cent of the sampled urban school districts and 68 per cent of the sampled rural school districts. An analysis of the data was conducted to test the following two null hypotheses:

HYPOTHESIS I: No difference exists between rural and urban school districts in the need for liability insurance as measured by the number of suits involving the school district or professional school district personnel.

HYPOTHESIS II: No difference exists between rural and urban school districts in the employment of legal counsel.

Decisions with regard to differences for both hypotheses were made using a Chi-Square test and a significance level at the .05 level or above. Additional data were compiled in order to draw conclusions regarding the current status of individual liability insurance protection for school districts and professional school district personnel within Indiana. The additional data were reported descriptively to show both: (1) rural and urban school district results and (2) total sample results.

Findings

The findings of the study are reported under four headings: (1) Liability Actions, (2) Legal Representation, (3) Liability Insurance Coverage, and (4) Educational Malpractice.

Liability Actions

The number of school related liability suits involving school districts or professional school district personnel for the five year period, 1972 through 1977, are reported in Table 1. While 26.5 per cent of rural school districts were involved in liability suits during the period, 57.7 per cent of the urban school districts were involved in liability suits. Data reported in Table 1 were used to test Hypothesis I. Results of a Chi-Square test comparing observed and expected number of suits for each stratum, rural and urban, indicated that a highly significant difference existed between rural and urban school districts in the need for liability insurance.

Defendants named in liability actions involving school districts or professional school district personnel and the per cent of liability actions in which each group was named as defendants were as follows: School district, 90 per cent; administrators, 40 per cent; board members, 32.5 per cent; and teachers, 17.5 per cent.

Negligence and personal injury were the grounds most

often reported for school related liability actions, especially in actions involving urban school districts. Negligence was reported as grounds in 70 per cent of liability actions reported by urban school districts and 30 per cent of liability actions reported by rural school districts. Personal injury was reported as grounds in 60 per cent of liability actions reported by urban school districts, but only ten per cent of rural school districts. Thirty per cent of the rual school districts reported grounds of the denial of the civil rights of teachers.

Judgments were rendered against the school district in 57.7 per cent of the liability actions reported as being settled as of December, 1977. The average settlement in actions rendered against rural school districts was $9,975, while the average settlement rendered against urban school districts was $14,506. Liability actions dealing with monetary settlements and the amounts of money involved in settlements are reported in Table 2.

What actions were taken by school districts to reduce the possibility of liability suits from occurring? Responses to this question are reported in Table 3. The most surprising statistic in the table appears to be the relatively low number of rural school districts (58.8 per cent) which have established written teacher dismissal policies for the district.

Legal Representation

Legal counsel were retained by 87.9 per cent of rural

school districts and 69.2 per cent of urban school districts. Results of a Chi-Square test indicated that no significant difference existed between rural and urban school districts in the employment of legal counsel.

Rural school districts paid an average yearly fee of $1,587 for legal services dealing with personal liability. Urban school districts paid over twice the yearly fee of rural school districts for legal services dealing with personal liability, averaging $3,476.

Liability Insurance Coverage

Types of coverage provided in the liability insurance policies for school districts are reported in Table 4. General liability insurance was the personal liability coverage most often provided in the liability insurance policies of school districts. Indemnity coverage was provided least often, being obtained in 67.9 per cent of school district liability insurance policies. For each type of liability insurance coverage, a higher percentage of policies obtained by urban school districts than rural school districts included the coverage. Concerning the amount of coverage obtained, more school districts obtained coverage in the amount of $1 million than for any other amount for each type of personal liability coverage listed in Table 4. Also, for each type of coverage, more urban school districts than rural school districts obtained

coverage in excess of $1 million.

Deductibles were obtained in school district liability insurance policies by 41.1 per cent of the school districts participating in the study. The frequency of deductible amounts for each type of liability insurance coverage obtained by school districts is reported in Table 5. As the figures show, a $1,000 deductible amount was obtained more often than any other deductible amount for each type of coverage. However, deductibles in excess of $1,000 were obtained on 18.9 per cent of all coverages with deductibles purchased by rural school districts and on 52.6 per cent of all coverages with deductibles purchased by urban school districts. Of these totals, four rural school districts and nine urban school districts reported deductibles of $10,000.

Limitations for notice, claim, and discovery periods appeared to be a confusing issue for school officials completing the questionnaire. Respondents reported that no limitations existed in 51.9 per cent of school district liability insurance policies with regard to notice periods, 59.3 per cent of policies with regard to claim periods, and 68.5 per cent of policies with regard to discovery periods. It would seem that insurance companies writing policies would ensure that limitations did exist regarding potential liability actions.

Premiums paid for personal liability insurance by rural school districts ranged from a low of $250 to a high of $5,800 annually. Premiums paid for personal liability

insurance by urban school districts ranged from a low of $900 to a high of $29,000 annually. Based on the premium rates supplied and the enrollment figures of the responding districts, rural school districts were providing liability insurance protection at an average premium rate of $1.20 per student enrolled while urban school districts were providing liability insurance protection at an average premium rate of $1.17 per student enrolled.

Educational Malpractice

Opinions of respondents about educational malpractice are reported in Table 6. Overall, 42.1 per cent of all respondents believed educational malpractice would become a major concern of educators within the next five years. Only 26.1 per cent of respondents from rural school districts which had not been involved in liability suits believed educational malpractice would become a problem for educators in the next five years.

Conclusions and Recommendations

A number of conclusions were made based on the data:

1. Urban school districts and professional school district personnel representing urban school districts are more likely to be involved in liability suits than rural school districts and professional school district personnel from rural school districts.

2. Monetary settlements of liability actions involving urban school districts are approximately 50 per cent greater than monetary settlements involving rural school districts.
3. Most liability actions involving school districts and/or professional school district personnel are brought on the grounds of negligence or personal injury.
4. Urban school districts provide for more types of liability, greater amounts of coverage, and larger deductible amounts for liability insurance protection generally than rural counterparts.
5. The amount of annual premium paid varies with type and amount of coverage, amount of deductible, school district enrollment, number of school officials and numbers of school employees covered.
6. Urban school districts pay more than twice the yearly fee for legal services dealing with personal liability than rural school districts.
7. School officials and employees from rural school districts which have not been involved in liability actions tend to be less wary of the implications of educational malpractice

than school officials and employees from urban school districts or from rural school districts which have been involved in liability actions.

The following recommendations are presented for school officials involved in the purchase of personal liability insurance for school district personnel:

1. School officials should annually review the school district liability insurance policies to ensure the coverage is adequate to protect the interests of the school district, board members, administrators, teachers, and other staff members. An annual review would also help make school officials dealing with school insurance more knowledgeable about the liability insurance protection of the school district.
2. School districts should provide legal counsel to represent any official or employee involved in a school related liability action.
3. Written due process procedures for both teacher dismissal and student discipline should be established by all school districts. Legal counsel should review the procedures for legality in accordance with current statute and case law.
4. School officials should provide informational

services concerning vulnerability of employees to liability actions and inservice for the prevention of liability actions to school district employees, particularly with regard to negligence and personal injury.

TABLE 1.--NUMBER OF SCHOOL RELATED LIABILITY SUITS INVOLVING THE SCHOOL CORPORATION OR PROFESSIONAL SCHOOL CORPORATION PERSONNEL IN INDIANA SCHOOL CORPORATIONS, 1972-1977

Response Category	School Corporations		Totals
	Rural	Urban	
Number of Corporations Responding	34	26	60
Number of Corporations Not Involved In Liability Suits	25	11	36
Number of Corporations Involved In Liability Suits	9	15	24
Number of Liability Suits Reported	10	30[a]	40[a]
Per Cent of Corporations Involved In Liability Suits	26.5	57.7	40.0

[a]One urban school corporation indicated that the corporation had been involved in a number of liability suits during the five year period, but did not report data regarding number or type of liability suit. Therefore, totals reflect only the number of liability suits reported by 14 of 15 urban school corporations and 23 of 24 total school corporations.

TABLE 2.--LIABILITY ACTIONS DEALING WITH MONETARY SETTLEMENTS AND THE AMOUNT OF MONEY INVOLVED IN SETTLEMENTS MADE FOR SCHOOL CORPORATIONS OR PROFESSIONAL SCHOOL CORPORATION PERSONNEL

Response Category	Rural Corporations	Urban Corporations	Combined
Number of Liability Actions With A Monetary Settlement Less Than $10,000	2	4	6
Number of Liability Actions With A Monetary Settlement From $10,000 to $20,000 Inclusive	2	2	4
Number of Liability Actions With A Monetary Settlement More Than $20,000	0	3	3
Number of Liability Actions With An Undetermined Amount of Settlement	0	3	3
Total Number of Liability Actions Involving Monetary Settlements	4	12	16
Total Amount of Money Involved in Settlements	$39,900	$130,550	$170,450
Average Amount of Money Per Liability Action Involving A Monetary Settlement	$9,975	$14,506[a]	$13,112[a]

[a]Average figured on basis of the nine actions which had been settled involving urban school corporations. Three actions were still in the courts for settlement determination when data were collected.

TABLE 3.--ACTIONS TAKEN BY SCHOOL CORPORATIONS TO REDUCE THE POSSIBILITY OF LIABILITY SUITS FROM OCCURRING

Actions	Rural Corporations		Urban Corporations		Combined	
	Taken	Percent Taken	Taken	Percent Taken	Taken	Percent Taken
Established Fair, Written Teacher Dismissal Policy	20	58.8	23	88.5	43	71.7
Established Due Process Procedures For Students In Discipline Cases	34	100.0	25	96.2	59	98.3
Provided Inservice For Faculty And Staff Regarding Liability Of School Personnel	21	61.8	14	53.8	35	58.3
Employed Legal Counsel To Advise Corporation On Matters Involving Potential Liability Suits	17	50.0	20	76.9	37	61.7
Other Actions	4[a]	11.8	2[b]	7.7	6	10.0

[a]Two rural school corporations indicated that legal counsel was employed to check all school policies and procedures for legality. One rural school corporation indicated that in-service regarding liability was provided for administrators. One rural school corporation indicated that open communications were maintained throughout all levels of the corporation.

[b]One urban school corporation indicated that Title IX due process procedures were explained to corporation employees. One urban school corporation indicated that additional liability insurance coverage was provided over the regular coverage.

TABLE 4.--TYPES OF COVERAGE PROVIDED IN LIABILITY INSURANCE POLICIES FOR INDIANA SCHOOL CORPORATIONS

Type of Coverage	Number of Responses								
	Rural Corporations			Urban Corporations			Combined		
	Provided	Not Provided	Per Cent Provided	Provided	Not Provided	Per Cent Provided	Provided	Not Provided	Per Cent Provided
General Liability	29	2	93.5	25	0	100.0	54	2	96.4
Personal Injury	26	5	83.9	23	2	92.0	49	7	87.5
Indemnity	20	11	64.5	18	7	72.0	38	18	67.9
Errors And Omissions	22[a]	9	71.0	20	5	80.0	42	14	75.0
Professional Malpractice	21[a]	10	67.7	19	6	76.0	40	16	71.4
Wrongful Acts	23	8	74.2	21	4	84.0	44	12	78.6
Defense Costs	24	7	77.4	22	3	88.0	46	10	82.1
Court Costs	24	7	77.4	22	3	88.0	46	10	82.1
Other Coverages	2[b]	29	6.5	0	25	0.0	2	54	3.6

[a]One rural school corporation reported that errors and omissions coverage and professional malpractice coverage were provided only for administrators and board members.

[b]One rural school corporation reported that coverage was purchased to specifically cover violation of civil rights. A second rural school corporation reported that an additional one million dollar school board liability policy was purchased by the school corporation.

TABLE 5.--FREQUENCY OF DEDUCTIBLE AMOUNTS FOR EACH TYPE OF LIABILITY INSURANCE COVERAGE OBTAINED BY SCHOOL CORPORATIONS

Type of Coverage	Number Of Responses															
	Amounts Of Deductible For Rural School Corporations ($)								Amounts Of Deductible For Urban School Corporations ($)							
	100	200	500	1000	2000	2500	5000	10000	100	200	500	1000	2000	2500	5000	10000
General Liability	1	1	0	2	0	0	0	2	1	0	1	2	1	0	1	2
Personal Injury	1	0	0	2	0	0	0	0	0	0	1	2	1	0	1	1
Indemnity	1	0	0	4	0	1	0	0	0	0	1	3	1	1	1	1
Errors And Omissions	1	0	1	5	0	1	0	1	0	0	0	4	1	1	1	1
Professional Malpractice	1	0	1	2	0	1	0	1	0	0	0	2	1	1	1	1
Wrongful Acts	1	0	1	6	0	1	0	0	0	0	0	4	1	1	1	1
Defense Costs	1	0	0	4	0	1	0	0	0	0	0	3	1	1	1	1
Court Costs	1	0	0	4	0	1	0	0	0	0	0	3	1	0	1	1
Other Coverage	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0
Totals	8	1	4	30	0	6	0	4	1	0	3	23	8	5	8	9

TABLE 6.--OPINIONS OF RESPONDENTS TO QUESTION: "DO YOU BELIEVE THAT THE ISSUE OF EDUCATIONAL MALPRACTICE WILL BECOME A MAJOR CONCERN OF EDUCATORS WITHIN THE NEXT FIVE YEARS?"

Historical Liability Status of School Corporations	Responses					
	Rural Corporations		Urban Corporations		Combined	
	Yes	No	Yes	No	Yes	No
Have Been Involved In Liability Suits	6	3	6	9	12	12
Have Not Been Involved In Liability Suits	6	17	6	4	12	21
Totals	12	20	12	13	24	33